



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing ((Scotland) Act 2014.**

**Chamber Ref: FTS/HPC/CV/19/2848**

**Re: Property at Flat 0/1, 3 Main Street, Busby, G76 8DS (“the Property”)**

**Parties:**

**Mr James Gormley, 8 Airylygg Drive, Eaglesham, Glasgow, G76 0LJ (“the Applicant”)**

**Mr Jamie Linton 25 Oliphant Crescent Busby; and Ms Katrina McAldine, 38 Bankholm Place, Clarkston, Glasgow G76 8SH (“the Respondents”)**

**Tribunal Members:**

**Lesley Ward (Legal Member)**

**Decision (in absence of the Respondents)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondents pay to the applicant the sum of one thousand eight hundred and seventy four pounds ninety two pence (£1874.92) with interest at 8 percent per annum from 3 February 2020 until payment.**

1. This was an adjourned case management discussion ‘CMD’ regarding an application to recover rent arrears in terms of s16 of the Housing(Scotland) Act 2014, ‘the Act’ and rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Regulations 2017, ‘the rules’. A first CMD on 19 December 2019 was adjourned to enable the applicant to explain how the sum sought of £1874.92 was calculated.

2. The tribunal had before it the following copy documents:
  - Application dated 10 September and received by the tribunal on 11 September 2019.
  - Short assured tenancy agreement between the parties dated 30 October 2017 with a start date of 1 November 2017.
  - AT5 dated 30 October 2017.
  - Note signed by second respondent dated 18 February 2019 regarding arrears of £1276.04
  - Rent receipts.
  - Land certificate.
  - Rent statement with rent arrears as at May 2019 of £1874.92.
  - Sheriff Officer's execution of service of the application on the first respondent dated 11 October 2019.
  
3. The applicant attended the CMD. The respondents did not attend and were not represented. Service of the application by sheriff officer was successful against the first respondent and service on the second respondent was carried out by advertisement. The second respondent has received service of the CMD today by advertisement. No intimation has been carried out on the first respondent. The tribunal proceeded in terms of rule 29 for the undernoted reason. Mr Gormley was seeking an order for the sum contained in the application of £1874.92 with interest at 8 per cent as per the short assured tenancy agreement. Since the last CMD he has ascertained the address of the second respondent as 38 Bankholm Place Clarkston Glasgow.

#### **4. Findings in fact.**

- The applicant is the owner and landlord of the property.
- The parties entered into a short assured tenancy on 30 October 2017 for let of the property with an agreed monthly rent of £500.
- Rent arrears of £1874.92 accrued from November 2017 until May 2019 when the respondents left the property.
- The sum of £1874.92 remains outstanding.
- The short assured tenancy at clause 19.2 provided for payment of interest on any arrears of rent at the rate of 8 per cent per annum.

#### **5. Reasons**

This was an undefended application to recover rent arrears arising out of a short assured tenancy agreement. The tribunal was satisfied that it had sufficient

information before it to make a decision at the CMD and that the procedure had been fair. The tribunal noted that intimation of the adjourned CMD had been carried out by advertisement on the second respondent as her address was unknown at the last CMD. The tribunal has not sent any intimation of the adjourned CMD to the first respondent. Nevertheless the application was served on the first respondent by sheriff officer on 11 October 2019 and the respondent has received fair notice of the application and the sum sought. The tribunal accordingly proceeded with the CMD and granted an order for payment of the sum of £1874.92. Interest was granted at 8 percent per annum as the short assured tenancy agreement has a clause agreed by the respondents for interest at this rate.

### **Right of Appeal**

**In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

**3 February 2020**

**Lesley A Ward    Legal Member**

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**Date**